IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No 20 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMM. OF CENTRAL EXCISE & CUSTOMS

Versus

JAGDISH BHATIA

Appearance:

1. CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No. 20 of 2000
MR ANANT S DAVE for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 20/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Though served, none appears for the respondent.

2. This is an application filed by the Commissioner of Central Excise & Customs, Surat - 1 under Section 35H(1) of the Central Excise Act, 1944 (`the Act' for short) for directing the Central Excise & Customs Gold Control Tribunal (CEGAT) to state the case and refer to this Court the following question:-

"Whether the provisions of fine and penalty as given in Central Excise Act, 1944 are applicable to the goods i.e. Man Made Fabrics (Processed) which are subjected to Additional Excise Duties in terms of Additional Duties of Excise (Goods of Special Importance) Act, 1957."

3. The learned counsel for the applicant states that in the case of M/s Gomti Processors, Surat, this Court has directed the CEGAT to refer the identical question for determination of this Court under Section 35H(1) of the Act. That order is also reproduced in ground (g) of this application.

4. In absence of any opposition from the opponent, we see no reason why this application should not be allowed.

5. Accordingly this application is allowed. The CEGAT shall state the case and refer to this Court the following question for our determination :-

"Whether the provisions of fine and penalty as given Central Excise Act, 1944 are applicable to the goods i.e. Man Made Fabrics (Processed) which are subjected to Additional Excise Duties in terms of Additional Duties of Excise (Goods of Special Importance) Act, 1957."

Rule is accordingly made absolute. The application stands disposed of accordingly.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-